

**UNITED STATES DISTRICT COURT  
FOR THE  
WESTERN DISTRICT OF PENNSYLVANIA**

TIMOTHY SERVIS,

Plaintiff

V.

RECEIVABLES PERFORMANCE  
MANAGEMENT, LLC,

Defendant

**Case No.:**

## COMPLAINT AND DEMAND FOR JURY TRIAL

## (Unlawful Debt Collection Practices)

## COMPLAINT

TIMOTHY SERVIS (“Plaintiff”), by and through his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against RECEIVABLES PERFORMANCE MANAGEMENT, LLC (“Defendant”).

# INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

## JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28

1 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising  
2 under the laws of the United States.

3 3. Defendant conducts business in the Commonwealth of Pennsylvania  
4 and therefore, personal jurisdiction is established.

5 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

6  
7 **PARTIES**

8 5. Plaintiff is a natural person residing Jeannette, Pennsylvania 15644.

9 6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. §  
10 1692a(3).  
11

12 7. In the alternative, Plaintiff is a person granted a cause of action under  
13 the FDCPA. See 15 U.S.C. §1692k(a) and Wenrich v. Cole, 2000 U.S. Dist  
14 LEXIS 18687 (E.D. Pa. Dec. 22, 2000).  
15

16 8. Defendant is a national debt collection company its office located at  
17 20816 44<sup>th</sup> Avenue West, Lynnwood, Washington 98036.  
18

19 9. Defendant is a “debt collector” as that term is defined by 15 U.S.C. §  
20 1692a(6), and repeatedly contacted Plaintiff in an attempt to collect a debt.

21 10. Defendant acted through its agents, employees, officers, members,  
22 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
23 representatives, and insurers.  
24  
25

**FACTUAL ALLEGATIONS**

11. At all relevant times, Defendant was attempting to collect an alleged consumer debt.

12. The alleged debt arose out of transactions, which were primarily for personal, family, or household purposes.

13. Beginning November 2014, and continuing through December 2014, Defendant contacted Plaintiff on his cellular telephone in its attempts to collect a debt.

14. Defendant contacted Plaintiff almost every day, and at times, more than once a day.

15. For example, Defendant called Plaintiff on November 6, 2014; November 8, 2014; November 9, 2014; November 10, 2014; and November 11, 2014.

16. In addition to calling Plaintiff on his cellular telephone, Defendant also called Plaintiff at his place of employment.

17. Plaintiff is not permitted to receive personal calls at his place of employment.

18. On one occasion, Defendant called and Plaintiff's boss asked who was calling, and then Defendant hung up.

19. Thereafter, Defendant again called Plaintiff's place of employment,

1 identified itself, and asked to speak with Plaintiff.

2 20. Plaintiff's boss told Defendant that Plaintiff does not work at the  
3 number it was calling.  
4

5 21. Later that same day, Defendant made a third call to Plaintiff's place  
6 of employment.

7 22. Plaintiff knew it was Defendant calling, as its telephone number  
8 appeared on his employer's caller id.  
9

10 23. Defendant's calls to Plaintiff's place of employment were so  
11 disruptive that his Area Manager told him that he needed to take care of the matter  
12 or there would be consequences, as he was not permitted to receive personal calls  
13 at work.  
14

15 24. Finally, within five (5) days of its initial communication with  
16 Plaintiff, Defendant failed to send Plaintiff written notification of his rights to  
17 dispute the debt and/or to request validation of the debt, as well as to provide him  
18 with the name of the creditor and the amount of the debt.  
19

20 25. Defendant actions as described herein were made with the intent to  
21 harass, abuse, deceive and upset Plaintiff.  
22  
23  
24  
25

**DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES  
ACT**

26. In its actions to collect a disputed debt, Defendant violated the FDCPA in one or more of the following ways:

**COUNT I**

- a. A debt collector violates §1692c(a)(1) of the FDCPA by communicating with a consumer in connection with the collection of any debt at any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer. In absence of knowledge of circumstances to the contrary, a debt collector shall assume that the convenient time for communicating with a consumer is after 8:00 a.m. and before 9:00 p.m., local time at the consumer's location.
- b. A debt collector violates §1692c(a)(3) of the FDCPA by communicating with a consumer in connection with the collection of any debt at the consumer's place of employment if the debt collector knows or has reason to know that the consumer's employer prohibits the consumer from receiving such communication.
- c. Here, Defendant violated §§ 1692c(a)(1) and 1692c(a)(3) of the

1 FDCPA when it called Plaintiff multiple times at his place of  
2 employment when it knew or should have known it was  
3 inconvenient for him to receive calls at his place of employment  
4 and that his employer did not permit him to receive personal  
5 calls at his place of employment.  
6

### 7 **COUNT II**

- 8 a. A debt collector violates § 1692d of the FDCPA by engaging in  
9 conduct the natural consequence of which is to harass, oppress,  
10 or abuse any person in connection with the collection of a debt.  
11
- 12 b. A debt collector violates § 1692d(5) of the FDCPA by causing  
13 a telephone to ring or engaging any person in telephone  
14 conversation repeatedly or continuously with intent to annoy,  
15 abuse, or harass any person at the called number.  
16
- 17 c. Here, Defendant violated §§ 1692d and 1692d(5) of the  
18 FDCPA when it called Plaintiff almost every day, calling as  
19 frequently as more than once a day.  
20

### 21 **COUNT III**

- 22 a. A debt collector violates §1692f of the FDCPA by using unfair  
23 or unconscionable means to collect or attempt to collect any  
24 debt.  
25

1           b.     Here, Defendant violated §1692f of the FDCPA engaging in  
2                 other unfair and unconscionable debt collection practices,  
3                 including calling Plaintiff at his place of employment and  
4                 hanging up when asked who was calling and calling him at his  
5                 place of employment, three times back-to-back.  
6

7                                 **COUNT IV**  
8

9           a.     A debt collector violates § 1692g(a) if within five days after the  
10                initial communication with a consumer, the debt collector fails  
11                to send the consumer a written notice containing (1) the amount  
12                of the debt; (2) the name of the creditor to whom the debt is  
13                owed; (3) a statement that unless the consumer, within thirty  
14                days after receipt of the notice, disputes the validity of the debt,  
15                or any portion thereof, the debt will be assumed to be valid by  
16                the debt collector; (4) a statement that if the consumer notifies  
17                the debt collector in writing within the thirty-day period that the  
18                debt, or any portion thereof, is disputed, the debt collector will  
19                obtain verification of the debt or a copy of a judgment against  
20                the consumer and a copy of such verification or judgment will  
21                be mailed to the consumer by the debt collector; and (5) a  
22                statement that, upon the consumer's written request within the  
23                statement that, upon the consumer's written request within the  
24                statement that, upon the consumer's written request within the  
25

1 thirty-day period, the debt collector will provide the consumer  
2 with the name and address of the original creditor, if different  
3 from the current creditor.  
4

- 5 b. Defendant violated § 1692g(a) by failing to send written  
6 notification, within five (5) days after its initial communication  
7 with Plaintiff, advising them of his rights to dispute the debt or  
8 request verification of the debt.  
9

10 WHEREFORE, Plaintiff, TIMOTHY SERVIS, respectfully prays for a  
11 judgment as follows:

- 12 a. All actual damages suffered pursuant to 15 U.S.C. §  
13 1692k(a)(1);  
14  
15 b. Statutory damages of \$1,000.00 for the violation of the FDCPA  
16 pursuant to 15 U.S.C. § 1692k(a)(2)(A);  
17  
18 c. All reasonable attorneys' fees, witness fees, court costs and  
19 other litigation costs incurred by Plaintiff pursuant to 15 U.S.C.  
20 § 1693k(a)(3); and  
21  
22 d. Any other relief deemed appropriate by this Honorable Court.  
23  
24  
25



**DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Plaintiff, TIMOTHY SERVIS, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

DATE: 07/09/15

KIMMEL & SILVERMAN, P.C.

By: /s/ Craig Thor Kimmel

CRAIG THOR KIMMEL

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